REMARKS

I. Status of the Application

Claims 1-34 are pending in the application. The Examiner has rejected claims 1-4, 6-10, 13-28, and 30-33, and has objected to claims 5, 11, 12, 29, and 34. By this amendment, claims 1, 11-24, and 30 are amended. Thus, claims 1-34 remain pending in this application.

As a preliminary matter, Applicants thank the Examiner in advance for an interview that is to be scheduled to discuss the present response in order to expedite the prosecution in the present case.

II. Drawings

With respect to the Examiner's objection to the drawings, Applicants hereby submit replacement Figs. 1-23, which are substantively identical to original Figs. 1-23, and merely reflect formal changes thereto.

III. Claim Rejections under 35 U.S.C. § 101

As shown on Page 5 of the Office Action, claims 13-23 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse.

In particular, independent claim 13 is amended herein to recite a computer readable medium for storing a protected digital work, which fully satisfies the requirements of § 101. Accordingly, Applicants respectfully request that the rejection of claims 13 under 35 U.S.C. § 101 be withdrawn, and similarly, that the rejection of claims 14-23 under 35 U.S.C. § 101 be withdrawn by virtue of their dependency on independent claim 13.

IV. Claim Rejections under 35 U.S.C. § 102

As shown on page 6 of the Office Action, claims 1-3, 7, 10, 13-15, 19, 22, 24-27, and 30-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Moskowitz, U.S. Patent No. 6,598,162. Applicants respectfully traverse.

The claimed invention recites a method of creating a polarized digital work,

wherein the digital work includes digital content and resource information for use by an application that transforms digital content into presentation data, comprising the steps of generating a polarization seed for use in a polarization scheme, generating a system resource by copying a portion of the digital work's resource information, wherein the system resource includes resource information specific to the digital work for use by the application, polarizing the digital work in accordance with a first polarization scheme which polarizes the digital content while preserving the resource information, using the polarization seed, and polarizing the system resource in accordance with a second polarization scheme using the polarization seed, wherein the application uses the polarized system resource to transform the polarized digital work into clear presentation data.

In the Office Action, the Examiner equates the "polarization seed" of the claimed invention with a predetermined, or randomly generated, key taught by Moskowitz, which may be comprised of a plurality of mask sets including file format data. The key is used to "scramble", i.e. transform, parts of a digital content. The content, disclosed as Compact Disc-Digital Audio (CD-DA), comprises frames, each of which included a number of digital samples and a header that contains file format information. The key can be used to scramble either the header information (which the Examiner asserts is equivalent to the system resource of the claimed invention) or some of the digital samples (which the Examiner asserts is equivalent to the digital work of the claimed invention). The content can then be "unscrambled" using a key-based decoder in the digital player for playback. Thus, Moskowitz essentially teaches an encryption/decryption method wherein digital samples are encrypted for transfer and then decrypted for playback.

However, Moskowitz does not teach or suggest transforming both the digital samples and the header information, as is recited in independent claims 1, 13, 24, and 30. To the contrary, Moskowitz teaches to scramble either the digital samples or the header information, but not both. To the contrary, as is recited in the claims, the application uses the polarized system resource to transform the polarized digital work into clear presentation data without depolarizing the digital content. Accordingly, if the system resource were not polarized in addition to the digital work being polarized, the

application would not be able to successfully transform the polarized digital work into clear presentation data. Therefore, the encryption/decryption method taught by Moskowitz would not work when trying to transform encrypted digital samples into clear presentation data without first decrypting the encrypted digital samples.

Similarly, if the encryption/decryption system of Moskowitz is used, the encrypted digital samples or header information must be decrypted to facilitate playback, and are thus no longer protected. However, according to the claimed invention, because the polarized digital work is not depolarized during the transformation of the polarized digital work into clear presentation data, the polarized digital work remains protected during their use, which is a significant advantage of the claimed invention. Thus, the polarization seed is used to protect the digital information while it is being used, which is after the user has been authorized to access to the digital information. The system of Moskowitz cannot achieve this level of protection.

Thus, Moskowitz does not teach each and every feature of amended independent claims 1, 13, 24, and 30. Therefore, Applicants respectfully request that the rejections of claims 1, 13, 24, and 30 under 35 U.S.C. § 102 be withdrawn. Similarly, Applicants respectfully request that the rejection of claims 2-3, 7, 10, 14-15, 19, 22, 25-27, and 31-32 under 35 U.S.C. § 102 be withdrawn as well by virtue of the dependency of these claims on allowable claims 1, 13, 24, and 30.

V. Claim Rejections under 35 U.S.C. § 103

As shown on pages 17-22 of the Office Action, claims 4, 6, 8, 9, 16, 18, 20, 21, 28, and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162, in further view of one of Searle, U.S. Patent No. 6,683,954, Markandey et al., U.S. Patent No. 6,526,144, or Moskowitz et al., U.S. Patent No. 5,745,569 (Moskowitz II). Applicants respectfully traverse.

As is stated above, independent claims 1, 13, 24, and 30 as amended require both a system resource and a digital work be polarized. To the contrary, Moskowitz teaches to scramble either digital content or header information, but not both. There is no suggestion whatsoever in the teachings of Moskowitz to scramble both the digital content and the header information. It would not have been obvious to a person of

ordinary skill in the art at the time of the invention to polarize both digital content and a system resource.

Moreover, independent claims 1, 13, 24, and 30 as amended require that the polarized digital work be transformed into clear presentation data without first depolarizing the digital content. According to teachings of Moskowitz, the encrypted digital samples must be decrypted prior to playback. It would not have been obvious to a person of ordinary skill in the art at the time of the invention to attempt to transform a polarized digital work into clear presentation data without first depolarizing the digital content.

Claims 4, 16, 28, and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162 in view of Searle, U.S. Patent No. 6,683,954. Applicants respectfully traverse.

Searle teaches a system wherein a key is encrypted using a second key. However, the teachings of Searle do not overcome the deficiencies of the teachings of Moskowitz stated above. In particular, the combined teachings of Moskowitz and Searle fail to render obvious the claimed invention as recited in independent claims 1, 13, 24, and 30. It would not have been obvious to a person of ordinary skill in the art at the time of the invention to polarize both digital content and a system resource. Moreover, it would not have been obvious to a person of ordinary skill in the art at the time of the invention to attempt to transform a polarized digital work into clear presentation data without first depolarizing the digital content.

Since the combined teachings of Moskowitz and Searle fail to render obvious the claimed invention as recited in independent claims 1, 13, 24, and 30, they also fail to render obvious those claims dependent on claims 1, 13, 24, and 30. Accordingly, Applicants believe that claims 4, 16, 28, and 33 are allowable over Moskowitz in view of Searle, and respectfully request that the rejection of claims 4, 16, 28, and 33 under 35 U.S.C. § 103(a) be withdrawn.

Claims 6, 9, 18, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162 in view of Markandey et al., U.S. Patent No. 6,526,144. Applicants respectfully traverse.

Markandey et al. teach a data protection system wherein data is formatted into a

data stream to be communicated across a communications medium. However, the teachings of Markandey et al. do not overcome the deficiencies of the teachings of Moskowitz stated above. In particular, the combined teachings of Moskowitz and Markandey et al. fail to render obvious the claimed invention as recited in independent claims 1 and 13. It would not have been obvious to a person of ordinary skill in the art at the time of the invention to polarize both digital content and a system resource. Moreover, it would not have been obvious to a person of ordinary skill in the art at the time of the invention to attempt to transform a polarized digital work into clear presentation data without first depolarizing the digital content.

Since the combined teachings of Moskowitz and Markandey et al. fail to render obvious the claimed invention as recited in independent claims 1 and 13, they also fail to render obvious those claims dependent on claims 1 and 13. Accordingly, Applicants believe that claims 6, 9, 18, and 21 are allowable over Moskowitz in view of Markandey et al., and respectfully request that the rejection of claims 6, 9, 18, and 21 under 35 U.S.C. § 103(a) be withdrawn.

Claims 8 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162 in view of Moskowitz et al., U.S. Patent No. 5,745,569 (Moskowitz II). Applicants respectfully traverse.

Moskowitz et al. in Moskowitz II teach a method for protecting computer code copyrights by encoding the code into a data resource with a digital watermark. However, the teachings of Moskowitz et al. in Moskowitz II do not overcome the deficiencies of the teachings of Moskowitz stated above. In particular, the combined teachings of Moskowitz and Moskowitz et al. in Moskowitz II fail to render obvious the claimed invention as recited in independent claims 1 and 13. It would not have been obvious to a person of ordinary skill in the art at the time of the invention to polarize both digital content and a system resource. Moreover, it would not have been obvious to a person of ordinary skill in the art at the time of the invention to attempt to transform a polarized digital work into clear presentation data without first depolarizing the digital content.

Since the combined teachings of Moskowitz and Moskowitz et al. in Moskowitz II fail to render obvious the claimed invention as recited in independent claims 1 and

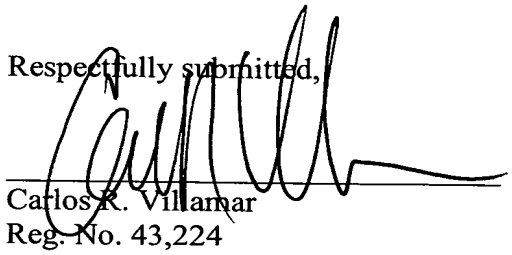
13, they also fail to render obvious those claims dependent on claims 1 and 13. Accordingly, Applicants believe that claims 8 and 20 are allowable over Moskowitz in view of Moskowitz et al. in Moskowitz II, and respectfully request that the rejection of claims 8 and 20 under 35 U.S.C. § 103(a) be withdrawn.

V. Allowable Subject Matter

Applicants acknowledge the Examiner's indication that claims 5, 11, 12, 29, and 34 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By this amendment, claims 11 and 12 are amended and rewritten in independent form. Accordingly, Applicants believe claims 11 and 12 are in condition for allowance.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,



Carlos R. Villamar
Reg. No. 43,224

NIXON PEABODY LLP
401 9th Street, NW
Washington, DC 20004
(202) 585-8000